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PATENT, TRADEMARK, COPYRIGHT  
AND UNFAIR COMPETITION LAW  
AND RELATED LITIGATION

EDMUND P. WOOD 1923-1988  
TRUMAN A. HERRON 1935-1976  
EDWARD B. EVANS 1936-1971

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January 20, 2003  
VIA FACSIMILE/CONFIRMATION BY MAIL  
703-305-1013

VTRO-28

Karin Tyson Ferriter, Esquire  
Senior Legal Advisor  
United States Patent and Trademark Office  
Crystal Plaza 3  
Washington, D.C. 20231

Re: Term Extension of United States Patent No. 4,490,351  
VITREON®

Dear Karin:

Attached is a letter concerning the above-referenced patent term extension which I sent to my client almost a year ago. The one year interim term extension will expire March 15, 2003. This is less than two months away.

As per our meeting last October with our Washington associate, Noreen Fabean, you have indicated that the FDA has not responded to your requests for an update on this matter. Ms. Fabean has been working with you consistently to attempt to resolve this matter; that is, obtain the full four year term extension in good time before the March 15, 2003 expiration of the interim extension.

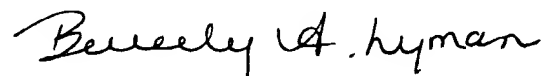
As would be anticipated, our client is frustrated by the process this term extension has taken. In order to avoid any further problems, I would like to meet with you on Wednesday, January 29, 2003. I am attaching the interim one year extension for your convenience.

WOOD, HERRON & EVANS, LLP

Karin Tyson Ferriter  
January 20, 2003  
Page 2

Please let me know if this meeting is not convenient and/or if you require any further information to obtain the full term extension. I am hopeful that our meeting will resolve any remaining issues with the FDA, and respectfully suggest that someone from the FDA be available for a conference call with us during our meeting on the 29<sup>th</sup>. I am available any time except 10:00 a.m. I look forward to your response. Please feel free to contact me by telephone, e-mail ([blyman@whepatent.com](mailto:blyman@whepatent.com)), or facsimile if I may provide further assistance.

Very truly yours,



Beverly A. Lyman, Ph.D.

BAL/ksf

Enclosures

cc: Gholam A. Peyman, M.D.  
Edward M. Beranek  
Noreen Fabean  
David J. Josephic, Esquire

K:\VTRO\28\LTR Ferriter status patent term extension.wpd

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EDMUND P. WOOD 1923-1968  
TRUMAN A. HERRON 1935-1976  
EDWARD B. EVANS 1936-1971

March 8, 2002  
VIA FACSIMILE  
708 447 1967

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VTRO-28

Mr. Edward M. Beranek  
Vitrophage, Inc.  
8643 West Ogden Avenue  
Lyons, IL 60534

Re: Term Extension of United States Patent No. 4,490,351  
VITREON®

Dear Mr. Beranek:

The attached document should represent the interim one-year patent term extension discussed during my February 28, 2002, meeting with Karin Tyson, Esquire, in the United States Patent and Trademark's Department of Legal Affairs. As she indicated to me, and as you and I discussed, the remaining four-year patent term extension will occur later this year, after the FDA properly republishes its Notice in the Federal Register.

As Ms. Tyson has stated, the FDA has been responsible for this delay. She asked that I convey to you her appreciation of your patience with the Patent Office as it attempts to work with the FDA to obtain the term extension.

Very truly yours,



Beverly A. Lyman, Ph.D.

BAL:cmp

Enclosure

cc: David J. Josephic, Esquire  
K:\VTRO\28\LTR Beranek post meeting status.wpd

## UNITED STATES PATENT AND TRADEMARK OFFICE

In re Vitrophage, Inc.  
Request for Patent Term Extension  
U.S. Patent No. 4,490,351

: ORDER GRANTING  
: INTERIM EXTENSION

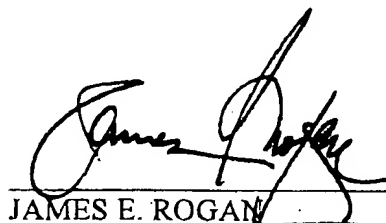
On November 22, 2000, Vitrophage, Inc., the owner of record of U.S. Patent No. 4,490,351, filed an application under 35 U.S.C. § 156(d)(1) for extension of the term of U.S. Patent No. 4,490,351. An extension of five years is requested. The patent claims a method of use of the approved device, perfluorophenanthrene ("VITREON®"). The application indicates, and the Food and Drug Administration has confirmed, that the product has undergone a regulatory review under Section 515 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. § 360e) before the first permitted commercial use or sale of the product. The original term of the patent expires on March 15, 2002.

Review of the application indicates that the subject patent is eligible for an extension of the patent term under 35 U.S.C. § 156. Since it is apparent that processing of the application for patent term extension will not be completed before the date of expiration of the patent, interim extension of the patent term under 35 U.S.C. § 156(e)(2) is appropriate.

An interim extension under 35 U.S.C. § 156(e)(2) of the term of U.S. Patent No. 4,490,351 is granted for a period of one year from the original expiration date of the patent, i.e., until March 15, 2003.

MAR - 7 2002

Date



JAMES E. ROGAN

Under Secretary of Commerce for Intellectual Property and  
Director of the United States Patent and Trademark Office